IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

WP(C).No. 28003 of 2007(H)

PETITIONER:

M.MATHUKUTTY, PROPRIETOR,
WE TWO STEEL INDUSTRIES,PADANAKKAD P.O.,
KANHANGAD, KASARAGOD DISTRICT.

BY ADV. SRI.V.P.SUKUMAR
SRI.KURYAN THOMAS

RESPONDENTS:

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1. THE COMMERCIAL TAX OFFICER
(AUDIT ASSESSMENT) KASARGOD.

2. THE DEPUTY COMMISSIONER (APPEALS)
COMMERCIAL TAXES,KOZHIKODE,

3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES,KASARGOD.

BY ADV. SHRI.SREEKRISHNA, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 28003 of 2007

Dated, this the 20th day of September, 2007

J U D G M E N T

Petitioner is challenging Ext.P9, which is conditional stay order issued by the appellate authority, directing payment of 50% of the disputed tax as condition for stay against recovery of the disputed tax during pendency of appeal. Even though it is not proper for this Court to consider merits of the case without which stay orders could not be modified, I find petitioner is a small scale industry engaged in a competitive business and the assessment made is based on electricity bill raised after noticing tampering of meter. In the circumstances, this writ petition is disposed of modifying Ext.P9 by reducing payment to Rs. 50,000/- as against 50% ordered. Petitioner is granted two weeks time from today to make payment.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg